

## Small Business Administration

## § 120.871

### PROJECT ECONOMIC DEVELOPMENT GOALS

#### § 120.860 Required objectives.

A Project must achieve at least one of the economic development objectives set forth in § 120.861 or § 120.862.

#### § 120.861 Job creation or retention.

A Project must create or retain one Job Opportunity for every \$35,000 guaranteed by SBA.

#### § 120.862 Other economic development objectives.

A Project that achieves any of the following community development or public policy goals is eligible if the CDC's overall portfolio of 504 loans, including the subject loan, meets or exceeds the CDC's required Job Opportunity average. Loan applications must indicate how the Project will meet the specified economic development objective.

(a) Community Development goals:

(1) Improving, diversifying or stabilizing the economy of the locality;

(2) Stimulating other business development;

(3) Bringing new income into the community;

(4) Assisting manufacturing firms (Standard Industrial Classification Manual (SIC) Codes 20-49); or

(5) Assisting businesses in Labor Surplus Areas as defined by the Department of Labor.

(b) Public Policy goals:

(1) Revitalizing a business district of a community with a written revitalization or redevelopment plan;

(2) Expanding exports;

(3) Expanding Minority Enterprise development (See § 124.105(b) for minority groups who qualify for this description);

(4) Aiding rural development;

(5) Increasing productivity and competitiveness (retooling, robotics, modernization, competition with imports);

(6) Modernizing or upgrading facilities to meet health, safety, and environmental requirements; or

(7) Assisting businesses in or moving to areas affected by Federal budget reductions, including base closings, either because of the loss of Federal con-

tracts or the reduction in revenues in the area due to a decreased Federal presence.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2118, Jan. 13, 1999]

### LEASING POLICIES SPECIFIC TO 504 LOANS

#### § 120.870 Leasing Project Property.

(a) A Borrower may use the proceeds of a 504 loan to acquire, construct, or modify buildings and improvements, and/or to purchase and install machinery and equipment located on land leased to the Borrower by the CDC or an unrelated lessor if:

(1) The remaining term of the lease, including options to renew, exercisable only by the lessee, equals or exceeds the term of the Debenture;

(2) The Borrower assigns its interest in the lease to the CDC with right of reassignment to SBA; and

(3) The 504 loan is secured by a recorded lien against the leasehold estate and other collateral as necessary.

(b) If a CDC leases property to a small business, the rent paid by the small business during the term of the Debenture must be enough to pay principal and interest on all debt incurred by the CDC to finance the Project, and all related expenses. The rent also may include a reasonable return on the CDC's investment.

(c) If the Project is for new construction, the Borrower may lease long term up to 20 percent of the Rentable Property in the Project to one or more tenants if the Borrower immediately occupies at least 60 percent of the Rentable Property, plans to occupy within three years some of the remaining space not immediately occupied and not leased long term, and plans to occupy all of the remaining space not leased long term within ten years.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2118, Jan. 13, 1999]

#### § 120.871 Leasing part of an existing building to another business.

(a) The costs of interior finishing of space to be leased out to another business are not eligible Project costs.

## § 120.880

(b) Third-party loan proceeds used to renovate the leased space do not count towards the 504 first mortgage requirement or the Borrower's contribution.

### LOAN-MAKING POLICIES SPECIFIC TO 504 LOANS

#### § 120.880 Basic eligibility requirements.

In addition to the eligibility requirements specified in subpart A, to be an eligible Borrower for a 504 loan, a small business must:

(a) Use the Project Property (except that an Eligible Passive Company may lease to an Operating Company); and

(b) Together with its affiliates, meet one of the following size standards:

(1) It does not have a tangible net worth in excess of \$6 million, and does not have an average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years in excess of \$2 million; or

(2) It meets the size standards in part 121 of this chapter for the industry in which it is primarily engaged.

#### § 120.881 Ineligible Projects for 504 loans.

In addition to the ineligible businesses and uses of proceeds specified in subpart A of this part, the following Projects are ineligible for 504 financing:

(a) Relocation of any of the operations of a small business which will cause a net reduction of one-third or more in the workforce of a relocating small business or a substantial increase in unemployment in any area of the country, unless the CDC can justify the loan because:

(1) The relocation is for key economic reasons and crucial to the continued existence, economic wellbeing, and/or competitiveness of the applicant; and

(2) The economic development benefits to the applicant and the receiving community outweigh the negative impact on the community from which the applicant is moving; and

(b) Projects in foreign countries (loans financing real or personal property located outside the United States or its possessions).

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#### § 120.882 Eligible Project costs for 504 loans.

Eligible Project costs which may be paid with the proceeds of 504 loans are:

(a) Costs directly attributable to the Project including expenditures incurred by the Borrower (with its own funds or from a loan):

(1) To acquire land used in the Project prior to applying to SBA for the 504 loan; or

(2) For any other expense toward a Project within nine months prior to receipt by SBA of a complete loan application, unless the time limit is extended or waived by SBA for good cause;

(b) In Projects involving construction, a contingency reserve for cost overruns not to exceed 10 percent of construction cost;

(c) Professional fees directly attributable and essential to the Project, such as title insurance, architecture, engineering, accounting, environmental studies, and legal fees (other than legal fees associated with the closing); and

(d) Repayment of interim financing including points, fees and interest.

#### § 120.883 Eligible administrative costs for 504 loans.

The following administrative costs are not part of Project costs, but may be paid with the proceeds of the 504 loan and the Debenture (see § 120.971):

(a) SBA guarantee fee;

(b) Funding fee (to cover the cost of a public issuance of securities and the Trustee);

(c) CDC processing fee;

(d) Borrower's out-of-pocket costs associated with the closing of the 504 loan (other than legal fees);

(e) CDC Closing Fee (see § 120.971(a)(2)) up to a maximum of \$2,500; and

(f) Underwriters' fee.

[64 FR 2118, Jan. 13, 1999]

#### § 120.884 Ineligible costs for 504 loans.

Costs not directly attributable and necessary for the Project may not be paid with proceeds of the 504 loan. These include, but are not limited to, the following: